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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,236	11/28/2001	William Frederick Moyer	MOYER 01.02	2789

7590 03/10/2004

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EXAMINER
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ACKUN, JACOB K

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/996,236	<b>Applicant(s)</b> MOYER, WILLIAM FREDERICK	
	<b>Examiner</b> Jacob K. Ackun Jr.	<b>Art Unit</b> 3712	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 is indefinite because it is contradictory as to whether any pages are in fact claimed in combination with the book cover or whether the pages are merely recited as an intended use of the claimed cover (compare line 6 with line 1 thereof). Claim 9 is indefinite because the thickness of the spine panel is made expressly dependent on the "objects" (note line 5). This calls into question whether the applicant's intention is to claim the objects, since other portions of the claim indicate that these do not appear to be claimed (note line 1 which merely recites that the claimed cover is for housing at least one object).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 9-12, 15-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Moser (5,609,250) or Kollinek (5,531,823). Either reference discloses rigid panels (the panels that hold the cassette or the most rigid layer of such panels) on either side of a spine panel that is expressly disclosed as providing a stop for the rigid panels.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied above and further in view of Moser (5,950,821). The above noted references teach all of the elements of the claims but for a CD holder and pages between the rigid panels. Moser '821 discloses CD holders between rigid covers of a case constructed to look like a videocassette case. It would have been obvious in view of Moser '821 to provide cases of the type disclosed by either Moser '250 or Kollinek '823 with at least one CD holder to facilitate the storage of CD's in proximity to tapes. Furthermore, it would have been obvious to provide pages between the covers as claimed, in order to provide a user of the cases with advertising or with additional information relative to the CD, tape or other medium stored therein. The provision of sheets bearing the aforementioned advertising or information is considered to be notorious in the relevant art.

6. Claims 5, 6, 11, 12 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearce (6,039,494). Pearce also teaches rigid panels on either side of a spine panel, the rigid panels rotating about hinges that are on the outside of the spine or are not part of the spine (note the drawings, for example). The panels may be inherently constrained from rotating as recited in claims 11 and 12 by objects other than those for storage between the panels. The cross sections of the appropriate panels of Pearce are considered to be trapezoidal since they have two parallel sides.

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7. Claims 13, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce (6,039,494). Pearce discloses all of the elements of the claims but for an express teaching of constructing the width of the space as set forth in claim 13, and for pages as recited in claim 20. However, it would have been obvious to base the width of the space on the sum of the thicknesses recited in claim 13, for the purpose of facilitating proper operation of the Pearce device for its intended purpose. It would have been obvious to provide pages within the case along with the data storage medium (note the Fig 6 embodiment), in order to conveniently provide advertising or information related to the data storage medium to a user of the case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob K. Ackun Jr. whose telephone number is (703)308-3867.

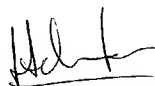
The examiner can normally be reached on Monday through Friday 8.30AM-5.00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703)308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jacob K. Aekun Jr.  
Primary Examiner  
Art Unit 3712

J.A.